UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,781	07/31/2000	Gregory J. Wolff	074451.P117	4872

7590 07/27/2005	EXAMINER
Michael J Mallie	BAUTISTA, XIOMARA L
Blakely Sokoloff Taylor & Zafman LLP	

12400 Wilshire Boulevard Seventh Floor	ART UNIT PAPER NUMBER
Los Angeles, CA 90025-1026	2179

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _09 May 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3-29,31-36 and 44-47_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,3-29,31-36 and 44-47_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _09 May 2005_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 5/9/05 have been fully considered but they are
not persuasive.

A.   Applicant argues, "the identifier of claim 1 is not to be embedded within the
media object...the identifier is used to identify a media object to be played...The
cited sections [disclosed in Levy] are related to how to use the identifier to access
additional context information and perform further action..." (page 12, lines 15-26).

In response, claim 1 (lines 2-3) recites "a controller configured to select an
identifier associated with a media object and to send a request to play the media
object identified by the identifier". Levy teaches that media objects are transformed
into active objects via identifiers embedded into them or their containers; a
decoding process extracts the identifier from a media object and forwards it to a
server; the server maps the identifier to an action, such as returning metadata, re-
directing the request to other servers, requesting information, etc.; a linking process
applies to broadcast objects and objects transmitted over networks in streaming and
compressed file formats. The controller may be a program that enables a user to
select a desired object and request a media object; Levy teaches this limitation
(abstract; col. 1, lines 35-60; col. 2, lines 5-24, 38-61).

B.   Applicant argues, "according to certain embodiments of the present application, the media object is not stored within the controller and the controller only stores identifiers for identifying the media objects. In response to the identifier wirelessly received from the controller, the network appliance determines whether the identified media object is stored within the network appliance. If so, the network appliance will play the media object. Otherwise, the network appliance downloads the media object from server over another network (e.g., Internet) and plays the downloaded media object...Lev fails to disclose...the limitations set forth above" (page 12, last two lines-page 13, line 9).

        In response, Levy discloses media objects (audio) having an object identifier that are transmitted over a network, such as the Internet (col. 6, lines 8-13) via a web site interface (wireless connection; col. 5, lines 61-65). Levy teaches receiving a web page associated with the object identifier for buying and downloading music (col. 6, lines 43-58).

C.   Applicant argues, "There is not suggestion within Levy, Dom, and Morris to combine with each other. Levy, Dom, and Morris are solving significantly different problems and their approaches are significantly different. One with ordinary skill in the art would not combine these references because such a combination lacks motives and reasonable expectations of success.

        In response to applicant's argument that there is no suggestion to combine

the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed

invention where there is some teaching, suggestion, or motivation to do so found

either in the references themselves or in the knowledge generally available to one of

ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case,

Levy teaches a method of music delivery and selling content; Dom teaches a method

of viewing and handling media data objects; and Morris teaches an interface for

using a collection of digital media.

Claim Objections

2.   Claim 46 is objected to because of the following informalities: "pbject" (line 4)

should be changed to --object--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102

that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in
the United States before the invention thereof by the applicant for patent, or on an international
application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section
371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection

Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29,

2000. Therefore, the prior art date of the reference is determined under 35 U.S.C.

102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.   Claims 1, 3-12, 21, 24-29, 31-35, 44 and 46-47 are rejected under 35

U.S.C. 102(e) as being anticipated by *Levy et al* (US 6,505,160 B1).

Claims 1, 21, 29, 35 and 44:

Levy discloses a system and method for linking audio and other multimedia

data objects with metadata and actions via a communication network (computer,

broadcast, wireless, etc). Levy teaches that media objects are transformed into

active, connected objects via identifiers. Identifiers are extracted from the media

object and forwarded to a server; the server maps the identifier to an action or re-

directs the request to one or more other servers; the server may respond with an

option for the user to buy the link and control the resulting action for the object

with the identifier (col. 1, lines 27-58; col. 2, lines 15-23, 38-43, 53-61). Levy

discloses a system having a controller for selecting an identifier associated with a

media object and send a request to play the media object identified by an identifier;

the controller sends the request over a wireless communication media (network

access); an appliance for receiving the request having the identifier from the

controller, for retrieving the media object from a first server via a network

connection when the media object is not stored in the appliance, and for playing the

media object (col. 4, lines 20-67; col. 5, lines 1-12, 56-65; col. 6, lines 3-67; col. 7,

lines 1-12; col. 10, lines 4-29, 58-67).

Claims 3-7 and 34:

See claim 1. Levy teaches synchronization to enable the first means to have

the identifiers associated with the media objects stored in the third means; first and

second servers for storing the media object; an appliance for retrieving the media

object from a second server when the media is not found in the first server (col. 3,

lines 24-48; col. 4, lines 40-60, 62-67; col. 5, lines 1-13; col. 6, lines 29-50).

Claims 8-10, 12 and 33:

Levy explains that a licensing server may be programmed to download

software players and new music offerings compatible with those players. The

licensing server may provide software for decrypting, decoding, and playing

electronically distributed music according to usage rules packaged with the

electronically distributed music. Levy teaches that the linking of the MP3 file

enables the content owner to market music and products that promote the sale of

audio objects in other formats, included formats protected with encryption (col. 6,

lines 29-59).

Claim 11:

See claim 8. Levy teaches that in the event that a media object is not linked,

the decoding and server processes can be programmed to enable the user to

purchase a link for the object (col. 1, lines 55-58; col. 2, lines 53-61; col. 3, lines 15-

21; col. 6, lines 60-67; col. 7, lines 1-12, 29-31).

Claim 24:

Levy teaches electronic transactions and payment information (col. 2, lines

62-67; col. 3, lines 1-23; col. 13, lines 49-67).

Claim 25:

Levy teaches an Internet browser (col. 6, lines 29-50). Computers and

browsers use cache memory to load Web pages more quickly.

Claims 26 and 27:

Levy teaches capture devices. Levy explains that the decoding process may

be implemented in a variety of devices or software that process media objects.

These devices and software include programmable devices such as personal

computers, personal digital assistants, personal stereos, tuners, televisions, etc. (col.

4,lines 25-32; col. 14, lines 34-40).

Claim 28:

Levy teaches audio and video objects (col. 10, lines 4-17).

Claim 31:

See claim 1. Levy teaches that a server may redirect a request when the object is not stored in it (col. 1, lines 41-55; col. 4, lines 40-67; col. 5, lines 1-12; col. 6, lines 43-51).

Claim 32:

Levy teaches access authorization and user ID for transactions (col. 2, lines 62-67; col. 3, lines 1-23; col. 13, lines 50-67; col. 14, lines 25-33).

Claim 46:

See claim 1. Levy teaches a plurality of servers for retrieving identified media object (fig. 1; col. 5, lines 54-65; col. 6, lines 29-58).

Claim 47:

See claim 1. Levy teaches media objects having a tag (key), both being stored within the device (abstract; col. 4, lines 25-67; col. 5, lines 1-22). Levy teaches downloading content (col. 4, lines 49-61) and format protection with encryption (col. 6, lines 43-58).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 13-15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Levy* and *Dom et al* (US 6,166,735).**

<u>Claims 13, 14 and 22</u>:

See claim 1. Levy teaches identifiers but it does not teach that identifiers are selected by selecting a visual representation of the media object. However, Dom discloses a computer system for viewing and browsing video data objects provided from a remote repository over a network such as the Internet (col. 1, lines 7-13; col. 2, lines 9-39, 49-63). Dom teaches identifiers selected by selecting a thumbnail (video visual representation), (col. 5, lines 13-31, 66-67; col. 6, lines 1-9; col. 8, lines 12-20). Therefore, it would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify Levy to include thumbnail images for representing media objects because they not only can be used to invoke other functions but also provide the user with a general idea of what the image looks like before selecting it; it can be used for quick identification; as an aid in indexing, previewing and/or cataloging images; they facilitate downloading and reduce download time.

Claim 15:

Dom shows a group of thumbnails in fig. 3 (col. 9, lines 25-29).

Claim 45:

See claim 1. Levy teaches that a media objects and its identifier travel

through electronic distribution, such as network communication (Internet), but does

not teaches that the network includes a wide area network. However, Dom teaches

media object that can be selected for download (col. 6, lines 15-22; col. 8, lines 12-

20). Dom teaches various computing devices (nodes) coupled to various networks

including local area networks, wide area networks, etc. (col. 7, lines 22-32).

7.   **Claims 16-20, 23 and 36 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over _Levy/Dom_ and _Morris et al_ (US 6,097,389).

Claims 16, 23 and 36:

Levy/Dom does not teach a second group including selected thumbnail images

from a first group including all the stored thumbnail images. However, Morris

discloses a method and apparatus for providing a user interface for presenting a

collection of digital media in a media container. Morris illustrates, in figs. 12B and

12F, two groups of thumbnails; the first group is in the thumbnail region 305 for

displaying all the thumbnails 1265, and the second group is in the album page

region 309 for displaying selected thumbnails 1261. Thus, it would have been obvious to a person having ordinary skill in the art at the time of invention to modify Levy/Dom to include Morris's teaching of a first and second region for grouping thumbnails because they allow the user to create different collections of documents or media objects, which may be desirable in some cases.

Claims 17-19:

See claims 1 and 16. Levy teaches a playlist (col. 3, lines 24-48; col. 10, lines 58-67; col. 17, lines 4-8). Morris teaches a first subgroup including a list of thumbnails (media objects) and a second subgroup including one or more thumbnails (figs. 12B and 12F).

Claim 20:

Levy discloses a microphone to record audio annotations (col. 14, lines 34-67; col. 15, lines 1-4). Morris teaches a text input area that enables users to enter information associated with the thumbnails (figs. 8A and 9; col. 10, lines 11-67; col. 11, lines 1-45).

Conclusion

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37
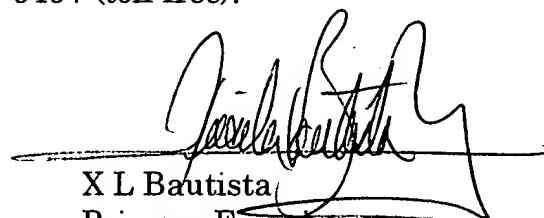
CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

9.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to X L. Bautista whose telephone number is (571)

272-4132. The examiner can normally be reached on Monday-Thursday 8:00AM-

6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

10.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

X L Bautista
Primary Examiner
Art Unit 2179

xlb
July 21, 2005